

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>BERLAINE SMITH MELTON</b> <i>Plaintiff,</i>  <b>v.</b>  <b>SEPTA, SYLVIA FRITZ, and DENNIS PAPADEAS,</b> <i>Defendants.</i>	<b>CIVIL ACTION</b>  <b>NO. 23-1260</b>
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**ORDER RE: MOTION TO DISMISS**

**AND NOW** this 25<sup>th</sup> day of September, 2024, upon review of Defendants' Motion to Dismiss, ECF 51, Plaintiff's Response, ECF 56, and Defendants' Reply, ECF 57, it is hereby **ORDERED** that this Court **GRANTS in part with prejudice** and **DENIES in part** Defendant's Motion to Dismiss, as detailed below:

- The Court dismisses Counts I, II, III, IV, VII, VIII without leave to amend;
- The Court dismisses Count V as to Papadeas and Fritz without leave to amend;
- The Court dismisses Count VI without leave to amend as to Papadeas in full, as to Fritz for the ADA, ADEA, Title VII, § 1981, and the PHRA (to the extent the claim rests on non-disability related allegations), and as to SEPTA for claims relating to Melton's April 2021 internal complaint; and
- The Court dismisses Count IX without leave to amend as to Papadeas in full and as to Fritz and SEPTA in part to the extent the claims rests on non-disability related allegations.

This case will proceed only as to the following Counts:

- Count VI against SEPTA for retaliation under the ADA and PHRA only as it relates to allegations of retaliation based on purported disability;
- Count V as to SEPTA for discrimination on the basis of disability under the ADA;

- Count IX as to SEPTA and Fritz for allegations of disability discrimination under the PHRA.

**BY THE COURT:**

s/ Michael M. Baylson

**MICHAEL M. BAYLSON**

**United States District Court Judge**

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